

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**G. STEVEN COX**

**APPELLANT,**

**v.  
KANSAS CITY CHIEFS FOOTBALL  
CLUB, INC.**

**RESPONDENT.**

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DOCKET NUMBER WD76616

DATE: August 5, 2014

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Appeal From:

Jackson County Circuit Court  
The Honorable James F. Kanatzar, Judge

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Appellate Judges:

Division Four: Alok Ahuja, Chief Judge, Presiding, Cynthia L. Martin, Judge and Wayne P. Strothmann, Special Judge

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Attorneys:

Chad C. Beaver and Lewis M. Galloway, Kansas City, MO, for appellant.

Anthony J. Romano, Alison P. Lungstrum and Eric E. Packel, Kansas City, MO, for respondent.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**G. STEVEN COX,**

**APPELLANT,**

**v.**

**KANSAS CITY CHIEFS FOOTBALL  
CLUB, INC.,**

**RESPONDENT.**

No. WD76616

Jackson County

Before Division Four: Alok Ahuja, Chief Judge, Presiding, Cynthia L. Martin, Judge and Wayne P. Strothmann, Special Judge

G. Steven Cox appeals a judgment in favor of the Kansas City Chiefs Football Club entered following a jury verdict in an age discrimination suit. Cox claims the trial court abused its discretion in the exclusion of certain evidence at trial, and committed plain error in failing to intervene during the Chiefs' closing argument.

**AFFIRMED**

**Division Four holds:**

1. The trial court did not abuse its discretion in excluding the testimony of 17 former employees to the extent the evidence was offered to establish a claim of discrimination based on systematic discrimination against other front office employees on the basis of their age when no such claim was asserted in Cox's administrative charge of discrimination or in his petition.

2. There is no blanket exclusion in discrimination cases of "me too" evidence from or about other employees offered to prove discriminatory motive or intent in the treatment of a plaintiff. Rather, the relevancy of such evidence must be reviewed on a case-by-case basis to determine whether it is logically and legally relevant. Logical relevance can be established if the circumstances of the plaintiff and the other employees are "sufficiently similar," a relationship which the plaintiff bears the burden of establishing.

3. The trial court did not enter a blanket ruling excluding "me too" evidence offered to circumstantially establish a discriminatory motive or intent in the decision to terminate Cox.

4. The trial court did not abuse its discretion in excluding testimony from 17 former employees offered to circumstantially establish that the Chiefs harbored a discriminatory motive or intent in terminating Cox. Cox failed to make offers of proof as to 7 of the former employees. The offers of proof from or about the remaining 10 employees support the trial court's conclusion that the circumstances of each employee were not sufficiently similar to Cox's to establish the logical relevance of the evidence to tend to prove discriminatory motive or intent. Moreover,

Cox has not appealed the trial court's independent determination that the offers of proof, even if logically relevant, were not legally relevant.

5. The trial court did not abuse its discretion in excluding testimony offered through one Chiefs' employee about the statements of another Chiefs' employee as direct evidence of a discriminatory motive or intent in the decision to terminate Cox when the employee who allegedly made the statement was not involved in Cox's termination. Moreover, Cox has not appealed the trial court's independent determination that the offered testimony, even if logically relevant, was not legally relevant.

6. The trial court did not abuse its discretion in quashing a deposition and a trial subpoena for the owner of the Chiefs when the information sought from him was available and obtained from lower level employees and otherwise came into evidence at trial.

7. Cox is not entitled to plain error review of alleged improper comments about the motives of his counsel made during the Chiefs' closing argument.

Opinion by Cynthia L. Martin, Judge

August 5, 2014

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